
DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for the Grizzly Bear**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise the special regulations for the threatened grizzly bear in the conterminous United States. The proposal involves: (1) A new requirement to report taking to Regional Service agents and to Indian Tribal authorities; (2) addition of Tribal authorities to those persons allowed to take grizzly bears under specified conditions; (3) a stipulation that grizzly bears or their parts, taken in self-defense, cannot be possessed or moved, except by authorized Federal, State, or Tribal personnel; (4) provision for limited commercial disposal of grizzly bears and their parts by State and Tribal authorities; and (5) adjustment of the boundaries and quotas associated with the State grizzly hunting season in northwestern Montana. With regard to the last matter, available data indicate that grizzlies in certain areas are declining and should not be hunted, but that increasing grizzly numbers elsewhere are leading to bear-human interactions that pose a risk to the main grizzly population. Therefore, this proposal would stop hunting in some areas, open it in others, and prohibit it altogether once the known total number

of grizzlies killed in one year within the range of the main population, exclusive of Glacier National Park, reached 21 minus the annually estimated unknown kill in the area, or once the number of female grizzlies killed reached 6. The estimated annual unknown kill would be set at 7 bears, and thus the total known kill set at 14, until new data show a need for revision. The Service seeks data and comments from the public. An abbreviated comment period is provided so that a final rule may be available prior to the commencement of the State hunting season on September 15.

DATE: Comments must be received by August 6, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service (SE), P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Endangered Species Office, Fourth Floor, 134 Union Boulevard, Lakewood, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Roybal, Staff Biologist, Endangered Species Office, Region 6, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236-7398 or FTS 776-7398).

SUPPLEMENTARY INFORMATION:

Background

The grizzly bear (*Ursus arctos*) originally occurred throughout western North America from Alaska to central Mexico. Its populations in the conterminous United States are now apparently restricted to northwestern and northwestern Washington, northern and eastern Idaho, western Montana, and northwestern Wyoming. Fewer than 1,000 individuals are thought to survive in these areas, most of them in northwestern Montana. In the **Federal Register** of July 28, 1975 (40 FR 31734-31736), the Service determined threatened status for the grizzly in the conterminous United States, pursuant to the Endangered Species Act of 1973. Special regulations were issued in conjunction with that determination, and were incorporated into 50 CFR Part 17.40(b). These rules provided general protection to the species, but allowed taking under certain conditions to defend human life, to eliminate nuisance animals, and to carry out research. In addition, a limited sport hunting season

35089), the Service issued an emergency rule modifying the regulations for this hunting season. That rule recently expired, and experience with various other aspects of the special regulations has shown them to not be fully sufficient for the conservation needs of the grizzly. Thus, it is now necessary to propose permanent revisions that would clarify and/or strengthen the regulations in the five major ways described below. Several minor adjustments and corrections also have been made in the proposed regulations.

Reporting of taking to appropriate authorities.—Successful prosecution for illegal taking of grizzly bears is dependent upon a timely, professional investigation. Current wording of § 17.40(b)(1)(i) (B, C, and E) and (ii)(A) does not provide for timely notification of Regional law enforcement agents of the U.S. Fish and Wildlife Service concerning possible illegal taking. New language would require reporting of the taking of any grizzly bear, within five days of occurrence, to the Special Agent in Charge of the Service's Division of Law Enforcement in Denver, Colorado, or Portland, Oregon. This requirement would provide centralized reporting and there would be no further need to report taking to the Service's Washington, DC offices. The present stipulation to report to State authorities would be maintained, but with the added requirement that any taking during the sport hunting season in Montana be reported to the State within 48 hours. In addition, if a grizzly bear is taken on an Indian reservation, it would have to be reported to Tribal law enforcement authorities.

Addition of Tribal authorities to those persons allowed to take grizzly bears.—The current regulations do not address the need of Indian Tribal authorities to remove nuisance grizzly bears on reservation lands, to carry out research, and to handle unlawfully taken bears. Grizzlies occur on the Flathead and Blackfeet Indian Reservations in Montana. Each involved tribe has reserved hunting rights pursuant to treaty. The Service therefore proposes that § 17.40(b)(1)(i)(C)(2) be amended to allow authorized Tribal personnel to take nuisance grizzlies on their respective reservations; that § 17.40(b)(1)(i)(D) be amended to allow such authorities to take grizzlies for research purposes; and that § 17.40(b)(1)(ii)(B) be amended to allow such authorities to possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzlies for scientific

Pursuant to § 17.40(b)(1)(i)(B), grizzly bears may be taken legally in self-defense or in defense of others. Currently, persons may recover parts such bears and lawfully possess them under the legal defense that if the taking of the animal is legal, the taking of its parts cannot be illegal. Such a situation may encourage the deliberate hunting of inoffensive bears, and the false claim that self-defense was involved. To prevent such taking of parts, the Service proposes to provide explicitly that grizzlies or their parts taken in self-defense may not be possessed, delivered, carried, transported, shipped, exported, or sold, except by authorized Federal, State, or Tribal officers.

Commercial transactions.—Current regulations do not provide for the commercial disposal of grizzly bears or their parts, even if the involved animal had been taken illegally and confiscated, or taken legally as nuisances or in defense of human life. The sale of such materials, if restricted to specified authorities and carried out pursuant to State and/or Tribal laws and regulations, would not be detrimental to wild grizzly populations. Moreover, the revenue generated by such sale would be used for conservation work that would benefit these populations. A special regulation providing for such sale would meet the requirement of section 4(d) of the Endangered Species Act, that it be "necessary and advisable . . . for the conservation" of a threatened species. Such a regulation is therefore now proposed through modification of § 17.40(b)(1)(iv).

Adjustment of hunting boundaries quotas.—The original special regulation issued on July 28, 1975, provided for hunting of the grizzly bear in the Flathead National Forest, the Bob Marshall Wilderness Area, and the Mission Mountains Primitive Area (or Mission Mountains Wilderness Area) in northwestern Montana. Such hunting was to cease once the number of grizzly bears killed throughout northwestern Montana during any one year, from causes, reached 25. The known grizzly kill in this area has averaged 20 per year since 1976, including an average annual hunting kill of 10.6. Prior to 1975, the average annual grizzly mortality in the area was 28 (Montana Department of Fish, Wildlife and Parks 1986).

The largest grizzly population in northwestern Montana, and in the conterminous United States, is that in the Northern Continental Divide

Flathead National Forest and adjoining portions of the Helena, Kootenai, Lewis and Clark, and Lolo National Forests (including the Bob Marshall, Great Bear, Mission Mountains, and Scapegoat Wilderness Areas); and some adjacent Bureau of Land Management, State, private, and Indian Reservation lands. Based on a number of recent studies, the Montana Department of Fish, Wildlife and Parks (1986) has estimated the grizzly bear population of the NCDE to contain 549 individuals, of which 356 are found outside of Glacier National Park. The Service is using this estimate in formulating the modification of § 17.40(b)(1)(i)(E) now being proposed. In the remainder of northwestern Montana, there may be no more than a dozen individual bears.

The status of the grizzly varies from place to place within the NCDE. Studies undertaken in various parts of the NCDE indicate that grizzly bear numbers are stable or increasing in some areas, but are decreasing in others (Aune and Stivers 1982, Aune *et al.* 1984, Claar 1985, Mace and Jonkel 1980, Martinka 1974, McLellan 1984, Servheen 1981, 1983). All but one of these studies postdate the current special regulations, which were published in 1975. The Service believes that the new information developed in these studies demonstrates the need to revise the current regulations in order to (1) adjust the boundaries of the areas within which hunting is allowed, and (2) change the level of maximum allowable annual kill, which is currently set at 25. The Service believes that these revisions are required to ensure the continued conservation of the species in all areas where it occurs.

The current regulations allow for hunting in the Mission Mountains Wilderness Area. The studies indicate, however, that grizzly bear numbers in the Mission Mountains currently are declining. The Service therefore proposes to revise the regulations so as not to allow for grizzly bear hunting in this area. A different situation exists along the Rocky Mountain Front in the eastern part of the NCDE. The existing regulations do not provide for hunting in the east front area beyond the Flathead National Forest and the Bob Marshall Wilderness Area. Grizzlies consistently use areas along the border of the Flathead National Forest in the Bob Marshall Wilderness Area, and frequent private lands in their movement through cover along riparian zones to low elevations. This movement may be attributable to one or a combination of factors, such as availability of bear

food sources (livestock carcass dumps, beehives, etc.), climatic changes, loss of previously utilized habitat, or an actual increase in the size of the overall bear population and consequent dispersal. In any case, grizzly bears in this area prey on livestock and destroy property, and thus pose a possible threat to human safety. Such difficulties are leading to confrontations between people and bears, confrontations that may result in the destruction of the latter. Live-trapping and relocation of bears preying on livestock and damaging property has met with only limited success. Moreover, the processes of trapping, immobilizing, handling, and relocating the animals (usually by helicopter) pose considerable risks to the bears themselves as well as the bear handlers. In 1985, 11 grizzlies were captured in such control measures in the Choteau area of the Rocky Mountain east front; 2 of these animals died as a result of this action, 1 was placed in a zoo, and 8 were released in other parts of the NCDE. Only a single grizzly was removed by control operations in the Choteau area from 1980 to 1984. The 1985 loss represents a new and serious escalation of bear-human conflicts along the east front. Present indications are that such problems will continue to intensify. Already this year, bears are frequenting ranch lands on the east front, exhibiting little fear of humans, damaging beehives, and preying on livestock. As of June 6, 1986, two grizzlies had been relocated or removed from this area.

Because of the two different critical situations described above—the decline of the grizzly population in the Mission Mountains and the escalation of bear-human conflicts on the eastern front of the Rocky Mountains—the Service considers that expedited action is required to alleviate a significant risk to the well-being of the grizzly. In the *Federal Register* of August 29, 1985 (50 FR 35086–35089), the Service issued an emergency rule adjusting the boundaries and quotas for the grizzly hunting season. That rule recently expired, and it is now necessary to propose permanent regulations that deal appropriately with the hunting season. The Service proposes to act under an abbreviated schedule because of the escalation in bear-human conflicts in the eastern front of the Rocky Mountains and because of the need to reinstate the conservation-based revisions in the hunting boundaries and quotas established by the August 29, 1985, emergency rule. Differences between the emergency and proposed permanent

has been newly obtained or more precisely interpreted and applied.

In accordance with section 4(d) of the Act, special regulations on threatened species must be "necessary and advisable to provide for the conservation of such species." Section 3(3) defines conservation, essentially, as measures that are beneficial to the species, and contribute to its recovery and ultimate removal from the List of Endangered and Threatened Wildlife. Special regulations for the grizzly bear, therefore, must be beneficial to the species and be aimed at the particular factors that threaten the species.

In its original determination of threatened status for the grizzly, on July 28, 1975, the Service decided that strictly controlled hunting would be a necessary element in the conservation program for the species. The Service continues to hold that regulated hunting is necessary and advisable for the conservation of the grizzly in northwestern Montana, and considers that such hunting should now be applicable in portions of the Rocky Mountain east front. Such hunting would tend to eliminate those bears that are unwary of humans and thus most likely to come into conflict with people. The remaining bears would likely be wary of humans and less likely to become involved in depredations or bear-human conflicts that would lead to control actions and possible mortality. This last point is supported by the studies of Elgmork (1978) and Mysterud (1977), who provided evidence that brown bear populations, long-exposed to human exploitation, did exhibit wariness, and by the work of Herrero (1985), who reported that bear-human confrontations are associated more frequently with unhunted, rather than hunted, bear populations. To help reduce the further escalation of problems on the east front, and in other areas, hunting also should continue in the Flathead National Forest (except that portion including the Mission Mountains) and the Bob Marshall Wilderness Area, and should be extended into the adjoining Scapegoat Wilderness Area and some adjacent lands. In order to more precisely delineate the involved areas, and to facilitate their identification on the ground, the Service now proposes to use mainly highways as boundaries for these areas (see accompanying map).

The Montana Department of Fish, Wildlife and Parks (1986), in developing its proposed levels of hunting, and female quotas, reviewed data from several studies and determined that the average annual human-induced mortality allowable to maintain a stable

population was 6.5 percent. However, in order to achieve recovery of the grizzly population in the NCDE, the conservation program must be geared toward increasing the existing population rather than just maintaining stability. This population is estimated to contain 356 bears, exclusive of Glacier National Park. Computer simulations have indicated that, if an annual human-induced mortality of 6 percent per year occurs, this population could still experience a general increase in numbers (Montana Department of Fish, Wildlife and Parks 1986). Six percent of 356 is approximately 21 bears, but it is also known, based on recovery of dead radio-collared grizzlies, that there is now an unknown, unreported kill in the NCDE. Therefore, the Service is proposing that the maximum allowable known kill be set at 21 minus a figure representing the annual estimated unknown, unreported kill. The State of Montana, in agreement with the Service, would have the authority to adjust the latter figure, based on new scientific information, as it becomes available, and thus to adjust the allowable known kill (within the maximum limit of 21). The present estimate of annual unknown human-induced mortality in the NCDE is 7, and that estimate would be used until new data showed a need for revision. Therefore, the known annual kill limit for the NCDE would be initially set at 14 grizzlies.

Under the proposed rule, known grizzly bear mortalities during any calendar year could include not more than six females. This figure is based on records indicating that annual mortality from hunting, from 1957 to 1984, averaged 40 percent female, and on the presumption that a greater rate of female mortality would be damaging to a grizzly population (Montana Department of Fish, Wildlife and Parks 1986). The State of Montana will propose grizzly hunting regulations to minimize the kill of female grizzly bears. The proposed quota of six females known killed per year is an upper limit, and State conservation measures and regulations will seek to maintain a female kill not to exceed that limit. The apportionment of the female kill into subunits of the NCDE will be at the discretion of the State of Montana through its annual hunting regulations. To further reduce the likelihood of female mortality, there would be no hunting of grizzly bears accompanied by young in any part of northwestern Montana, as such grizzlies would in all likelihood be females.

The Service recognizes that hunting or depredation hunts may be necessary

and advisable in the future in other portions of the species' range, such as the Yellowstone region of Wyoming, as grizzly numbers increase in response to conservation efforts. Depredation hunts would involve the taking of grizzly bears, deemed nuisance animals and unsuitable for further relocation, by licensed hunters accompanied by authorized State personnel. Further determinations to open a hunting season or implement a depredation hunt would be based on the most current data regarding grizzly numbers and population status, and would require publication in the **Federal Register** of a proposed rule for public comment.

The State of Montana normally opens its grizzly bear hunting season in northwestern Montana on September 15. The State utilizes the quotas and boundaries set forth in the Service's special rule in establishing the State grizzly bear hunting regulations. As described above, currently available data indicate that the quotas and boundaries in the existing special rule should be revised. The Service must revise the special rule prior to the September 15 opening of the State hunting season, and therefore is providing an abbreviated 20-day public comment period.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4 of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References

- Aune, K., and T. Stivers. 1982. Rocky Mountain front grizzly bear monitoring and investigation. Montana Department of Fish, Wildlife and Parks, Helena, 143 pp.
- Aune, K., T. Stivers and M. Madel. 1984. Rocky Mountain front grizzly bear monitoring and investigation. Montana Department of Fish, Wildlife and Parks, Helena, 138 pp.
- Claar, J. 1985. Flathead Reservation grizzly bear management. Draft, U.S. Bureau of Indian Affairs.
- Elgmork, K. 1978. Human impact on a brown bear population (*Ursus arctos* L.). Biological Conservation 13:81-88.
- Herrero, S. 1985. Bear attacks—their causes and avoidance. Nick Winchester Press, New Century Publishers, Inc., Piscataway, New Jersey, 287 pp.
- Mace, R.D. and C. Jonkel. 1980. Ackamina-Kishinena grizzly project. In Jonkel, C. (ed.), Annual Report 5. Border Grizzly Project, University of Montana, Missoula, pp. 9-48.
- Martinka, C. 1974. Population characteristics of grizzly bears in Glacier National Park. Montana. Journal of Mammology 55:21-29.
- McLellan, B. 1984. Population parameters of the Flathead grizzlies. Canadian Border Grizzly Project, 28 pp.
- Montana Department of Fish, Wildlife and Parks. 1986. Programmatic environmental impact statement. The grizzly bear in northwestern Montana. Helena, 278 pp.
- Mysterud, L. 1977. Problems in research management of the brown bear in Norway. Viltrappot 4:19-51.
- Servheen, C. 1981. Grizzly bear ecology and management in the Mission Mountains, Montana. Ph.D. Dissertation. University of Montana, Missoula, 138 pp.
- Servheen, C. 1983. Grizzly bear food habits, movements, and habitat selection in the Mission Mountains, Montana. Journal of Wildlife Management 47:1026-1035.
- U.S. Fish and Wildlife Service. 1982. Grizzly bear recovery plan. USFWS, Denver, Colorado, 190 pp.

Author

The primary author of this proposed rule is Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, HS 105D, University of Montana, Missoula, Montana 59812 (406/329-3223 or FTS 585-3223).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, the Service proposes to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to revise § 17.40(b) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(b) Grizzly bear (*Ursus arctos*)—(1) *Prohibitions.* The following prohibitions apply to the grizzly bear:

(i) *Taking.* (A) Except as provided in paragraphs (b)(1)(i)(B) through (F) of this section, no person shall take any grizzly bear in the 48 conterminous states of the United States.

(B) Grizzly bear may be taken in self-defense or in defense of others, but such taking shall be reported within 5 days

of occurrence, to the Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236-7540 or FTS 776-7540), if occurring in Montana or Wyoming, or to the Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1490, 500 Northeast Multnomah Street, Portland, Oregon 97232 (503/231-6125 or FTS 429-6125), if occurring in Idaho or Washington, and to appropriate State and Indian Reservation Tribal authorities. Grizzly bears or their parts taken in self-defense or in defense of others shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

(C) *Removal of nuisance bears.* A grizzly bear constituting a demonstrable but nonimmediate threat to human safety or committing significant depredations to lawfully present livestock, crops, or beehives may be taken, but only if:

(1) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed to a remote area the grizzly bear involved; and

(2) Taking is done in a humane manner by authorized Federal, State, or Tribal authorities, and in accordance with existing interagency guidelines covering the taking of such nuisance bears; and

(3) The taking is reported within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(D) *Federal, State, or Tribal scientific or research activities.* Federal, State, or Tribal authorities may pursue, capture, or collect grizzly bears for scientific or research purposes. Such taking must be reported within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(E) *Northwestern Montana.* If it is not contrary to the laws and regulations of the State of Montana, a person may hunt grizzly bear, except a grizzly bear accompanied by young, in the area bounded on the north by the United States-Canada border, on the east by Interstate Highway 15, on the south by State Highway 200, on the west by a line extending from the U.S.-Canada border

intersection with Montana State Highway 82, and then east and south along State Highways 82 and 83, except that this area shall not include Glacier National Park and that portion of the Blackfeet Indian Reservation, as defined by the following boundaries: Beginning at the intersection of the U.S.-Canada border and the North Fork of the Flathead River, thence south along the North Fork to its confluence with the Middle Fork of the Flathead River, thence east along the Middle Fork to its intersection with U.S. Highway 2, thence east along U.S. Highway 2 to its intersection with the border of the Blackfeet Indian Reservation, thence southeast in a straight line to Heart Butte, thence south along a straight line to the North Fork of Birch Creek, thence east of Swift Dam and along Birch Creek to Cut Bank Creek, thence north along Cut Bank Creek through and approximately $2\frac{3}{4}$ miles north of the town of Cut Bank, thence north along a straight line to the United States-Canada border, thence west along said border to the point of beginning:

Provided, That if in any calendar year in question, in that part of Montana, exclusive of U.S. Glacier National Park, which is bounded on the north by the United States-Canada Border, on the east by Interstate Highway 15, on the south by State Highway 200, and on the west by U.S. Highway 93, the known number of female grizzly bears already killed or removed, for whatever reason, reaches 8, or the known total number of grizzly bears already killed or removed, for whatever reason, reaches 21 minus a figure representing the annual unknown, unreported human-induced mortality in that same part of Montana, as estimated on the basis of scientific information by the State of Montana, in agreement with the U.S. Fish and Wildlife Service, the Director of the Montana Department of Fish, Wildlife and Parks shall post and publish a notice prohibiting such hunting, and any such hunting for the remainder of that year shall be unlawful: *Provided further*, That the estimate of annual unknown, unreported human-induced mortality shall be grizzly bears until new scientific data show, to the satisfaction of the State of Montana and the U.S. Fish and Wildlife Service, that this estimate should be revised: *Provided further*, That any legal taking of a grizzly bear in the above-described portion of Montana shall be reported within 48 hours of occurrence to the Montana Department of Fish, Wildlife and Parks, Helena, Montana 59601 (406/444-2535), and within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law

Service, as indicated in paragraph (b)(1)(B) of this section, and to appropriate Tribal authorities.

(F) *National Parks.* The regulations of the National Park Service shall govern all taking of grizzly bears in National Parks.

(ii) *Unlawfully taken grizzly bears.*

(A) Except as provided in paragraphs (B)(1)(ii)(B) and (b)(1)(iv) of this section, no person shall possess, deliver, carry, transport, ship, export, receive, or sell any unlawfully taken grizzly bear. Any unlawful taking of a grizzly bear shall be reported within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(B) Authorized Federal, State, or Tribal employees, when acting in the course of their official duties, may, for scientific or research purposes, possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzly bears.

(iii) *Import or export.* Except as provided in paragraphs (b)(1)(iii) (A) and (B) and (b)(1)(iv) of this section, no person shall import any grizzly bear into the United States.

(A) *Federal, State, or Tribal scientific or research activities.* Federal, State, or Tribal authorities may import grizzly bears into the United States for scientific or research purposes.

(B) *Public zoological institutions.* Public zoological institutions (see 50 CFR 10.12) may import grizzly bears into the United States.

(iv) *Commercial transactions.* (A) Except as provided in paragraphs (b)(1)(iv) (B) and (C) of this section, no person shall, in the course of commercial activity, deliver, receive, carry, transport, or ship in interstate or foreign commerce any grizzly bear.

(B) A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce.

(C) State or Tribal authorities acting pursuant to applicable State law or Tribal ordinance may sell or offer for sale in interstate or foreign commerce any unlawfully grizzly bear or parts thereof, subsequent to the termination of all legal proceedings, or any grizzly bear or parts thereof taken legally as a nuisance or in self-defense or defense of others. Such sale may take place only if there are no legitimate scientific or

grizzly bear or parts. All involved grizzly bears and parts must be identified according to State or Tribal regulations, and all such sales, and the name and address of the buyer, must be reported within 5 days of the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section. In the course of such commercial activity, State or Tribal authorities may deliver, receive, carry, transport, or ship grizzly bears and their parts in interstate or foreign commerce.

(v) *Other violations.* No person shall attempt to commit, cause to be committed, or solicit another to commit any act prohibited by paragraph (b)(1) of this section.

(2) *Definitions.* As used in paragraph (b) of this section:

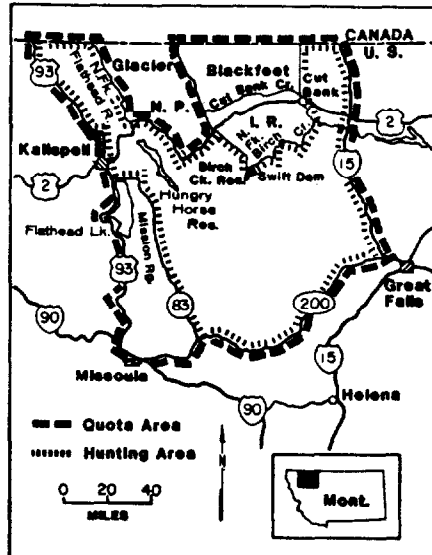
"Grizzly bear" means any member of the species *Ursus arctos* of the 48 conterminous States of the United States, including any part, offspring, dead body, part of a dead body, or product of such species.

"State, Federal or Tribal authority" means an employee of State, Federal, or Indian Tribal government who, as part of his/her official duties, normally handles grizzly bears.

"Identified" means permanently marked or documented so as to be

identifiable by law enforcement officials at a subsequent date.

"Grizzly bear accompanied by young" means any grizzly bear having offspring, including one or more cubs, yearlings, or 2-year-olds, in its immediate vicinity.



Dated: July 2, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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